

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION

CAPITOL RECORDS, INC., a Delaware Corporation; WARNER BROS. RECORDS, INC., a Delaware Corporation; ARISTA RECORDS, INC., a Delaware Corporation; BMG MUSIC, a New York general partnership; SONY MUSIC ENTERTAINMENT, INC., a Delaware Corporation; and UMG RECORDINGS, INC., a Delaware corporation,

Plaintiffs,

CIVIL ACTION No. 04-CV-40168 FDS

v.

JIM FITZPATRICK,

Defendant.

**JOINT MOTION FOR EXTENSION OF TIME**

The Parties hereby jointly request a seven (7) day extension of the deadline for Plaintiffs Capitol Records, Inc., Warner Bros. Records, Inc., Arista Records, Inc., BMG Music, Sony Music Entertainment, Inc., and UMG Recordings, Inc., (collectively, "Plaintiffs") to file dispositive motions, as well as file their opposition to Defendant Jim Fitzpatrick's ("Defendant's") Motion for Summary Judgment, from July 15, 2005 until July 22, 2005. The Parties also move the Court for a similar enlargement of time to extend the deadlines for the Parties to make expert disclosures pursuant to Federal Rule 26(a) by seven (7) days. The deadline for the Plaintiffs' expert disclosures should thus be extended from July 11, 2005 until July 18, 2005, and the deadline for the Defendant's expert disclosures should be extended from August 10, 2005 until August 17, 2005.

In support thereof, the Parties state:

1. On November 23, 2004, the Court conducted a status conference in this matter. At the conference, the Court issued a Scheduling Order setting a date of July 10, 2005 for the Plaintiffs to designate their trial expert(s) and disclose the information contemplated by Fed. R. Civ. P. 26(a)(2).
2. Pursuant to the order of the Court entered on June 28, 2005, the deadline for Plaintiffs to file dispositive motions, as well as file their opposition to Defendant Jim Fitzpatrick's ("Defendant's") Motion for Summary Judgment, is currently July 15, 2005.
3. Plaintiffs have provided terms of settlement to the Defendant.
4. Defendant requires the assistance of a computer technician to adequately assess the import of the technical discovery adduced during this case in order to meaningfully consider Plaintiffs' offer of settlement, however, Defendant's computer technician is unavailable prior to the deadlines for dispositive motions and expert disclosures.
5. The requested extension of time will impose no undue burden on either Party, but will allow both Parties the opportunity to avoid expending significant resources prior to Defendant's election to settle this matter or proceed. Indeed, the extension has the potential to benefit both Parties, by leading to a clarification of the evidence adduced during discovery that could result in resolution of this matter prior to a hearing on dispositive motions and trial.

WHEREFORE, the Parties respectfully request that Plaintiffs be permitted until July 22, 2005 to file dispositive motions, as well as an opposition to Defendant's Motion for Summary Judgment, that Plaintiffs be permitted until July 18, 2005 to make their expert disclosures pursuant to Federal Rule 26(a) and that Defendant be permitted until August 17, 2005 to make his expert disclosures.

Respectfully submitted,

CAPITOL RECORDS, INC., WARNER  
BROS. RECORDS, INC., ARISTA  
RECORDS, INC., BMG MUSIC, SONY  
MUSIC ENTERTAINMENT, INC., and  
UMG RECORDINGS, INC.,

JIM FITZPATRICK,

By their attorneys,

By his attorney,

/s/ Gabriel M. Helmer

Colin J. Zick (BBO No. 556538)  
Gabriel M. Helmer (BBO No. 652640)  
FOLEY HOAG LLP  
155 Seaport Blvd.  
Boston, MA 02210  
(617) 832-1000

/s/ Michael T. Gaffney

Michael T. Gaffney (BBO No. 651957)  
390 Main Street, Suite 543  
Worcester, MA 01608  
(508) 770.1007

ATTORNEYS FOR PLAINTIFFS  
Dated: July 11, 2005

ATTORNEY FOR DEFENDANT

**CERTIFICATION OF COUNSEL**

Pursuant to Local Rule 7.1(A)(2), the undersigned certifies that on July 8 and 11, 2005 counsel for the Plaintiffs conferred with Michael T. Gaffney, Esquire, counsel for Jim Fitzpatrick, in a good faith attempt to resolve the issues raised in this motion and Mr. Gaffney indicated his assent to the filing of this Joint Motion on behalf of all Parties.

/s/ Gabriel M. Helmer

Gabriel M. Helmer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of July, 2005, I caused a true copy of the above document to be served upon Michael T. Gaffney, Esquire, counsel for Jim Fitzpatrick, by email and mail.

/s/ Gabriel M. Helmer

Gabriel M. Helmer

FHBOSTON/3060483.2